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FISCAL IMPACT STATEMENT

LS 6726

BILL NUMBER: SB 335

NOTE PREPARED: Feb 19, 2010

BILL AMENDED: Feb 18, 2010

SUBJECT: Local Government.

FIRST AUTHOR: Sen. Broden

FIRST SPONSOR: Rep. Tyler

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☐ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) *Certification of Tax Sale Property List*- The bill provides that the tax sale property list may be certified on or after January 1 and not later than 51 days after the first tax payment due date.

Costs Recovery- The bill allows a county to recover its costs of sale of certain certificates of sale.

Tax Sale Surplus Fund- The bill requires court approval of certain claims against the tax sale surplus fund. The bill places restrictions on agreements by property owners for location, delivery, recovery, or assistance in the recovery of money deposited in the tax sale surplus fund.

Certificate of Sale- The bill allows the county executive to assign a certificate of sale with respect to real property to any political subdivision, and provides that the period of redemption of the real property is 120 days after the assignment.

Invalid Tax Sale- The bill establishes procedures to account for funds if a tax sale is declared invalid.

Sheriff's Sales- The bill allows a sheriff's sale to proceed only if the tax sale redemption amount and outstanding property taxes, special assessments, penalties, and interest are paid.

Notice- The bill requires notice to a tax sale purchaser of certain actions proposed with respect to the property under the unsafe building statute.

Cancellation of Exempt Entities' Property Taxes- The bill authorizes the Department of Local Government

Finance (DLGF), with the approval of the Attorney General (AG) and local officials and upon making certain findings, to cancel property taxes, interest, and penalties assessed against tangible property owned by certain exempt entities.

Local Government Reorganization- The bill specifies that a reorganization committee acting under the local government reorganization statutes must include in its reorganization plan submitted to a political subdivision after June 30, 2010, a statement regarding: (1) whether a fiscal impact analysis concerning the proposed reorganization has been prepared by or on behalf of the reorganization committee; and (2) whether a fiscal impact analysis concerning the proposed reorganization has been made available to the public.

The bill provides that in the case of a plan of reorganization submitted to a political subdivision after June 30, 2010, the political subdivision shall post a copy of the plan of reorganization on an Internet web site maintained or authorized by the political subdivision not more than 30 days after receiving the plan of reorganization. The bill provides that officers for a reorganized political subdivision that results from a reorganization including a county and at least one municipality shall be elected at the next general election after the voters approve the reorganization. The bill specifies that the public question on a proposed reorganization shall be placed on the ballot on the first regularly scheduled general election or municipal election (excluding any primary elections) that will occur in all of the precincts of the reorganizing political subdivisions.

The bill provides that if a statute is enacted allowing a county to reorganize the county executive body, county legislative body, or county fiscal body and if: (1) a plan of reorganization is not prepared, notice must be published that includes a statement indicating whether a fiscal impact analysis has been prepared or not prepared and whether the fiscal impact analysis has been made available or has not been made available to the public; or (2) a plan of reorganization is prepared, the plan of reorganization must include a statement indicating whether a fiscal impact analysis has been prepared or not prepared and whether the fiscal impact analysis has been made available or has not been made available to the public.

Notices Sent to Property Owners- The bill requires that a notice regarding: (1) a sewer lien on property occupied by a person other than the property owner; or (2) the removal of weeds or rank vegetation; must be given to the property owner by certified mail at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice.

Filing of Praecipe for Sale of Property- The bill provides that an enforcement agency that has obtained an abatement order for a vacant or abandoned structure may under certain conditions file a praecipe for sale of the property with the clerk of the county in which a judgment and decree for sale is filed after 180 days have elapsed from the date the judgment and decree is filed, if the party that is entitled to enforce the judgment has not itself filed a praecipe.

Presuit Notice- The bill combines two separate Indiana Code provisions concerning the presuit notice required in residential foreclosure proceedings into one section. The bill repeals one of the provisions being combined. The bill provides that the presuit notice must inform the debtor that if the creditor obtains a foreclosure judgment, the debtor has a right to do the following before a sheriff's sale is conducted: (1) Appeal a finding of abandonment by a court. (2) Redeem the real estate from the judgment. (3) Retain possession of the property, subject to certain conditions. The bill corrects the use of a term in the unsafe building law.

Effective Date: (Revised) Upon passage; January 1, 2010 (retroactive); July 1, 2010.

Explanation of State Expenditures: (Revised) *Presuit Notice*- The Indiana Housing and Community Development Authority (IHCDA) would have to revise their prescription of the presuit foreclosure form that creditors, under current law, must send to notify debtors that the creditor is going to pursue legal action. It is likely that other than minor printing costs, this provision would not lead to a significant increase in IHCDA expenditures.

Explanation of State Revenues: *Tax Sale Surplus Fund*- If more claims to the local tax sale surplus funds are decided in court, court fee revenue to the state General Fund would increase.

Court Fee Revenue: A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Certification of Tax Sale Property List*- This provision could save expense and administrative time if a county did not hold a tax sale in a given year.

Invalid Tax Sale- In the event of an invalid sale, under the bill, the county auditor would have to refund the purchase money and an additional 6% per annum of interest. Secondly, the auditor would then certify the amount paid as a lien against the property and as a civil judgement against the property owner.

Sheriff's Sales- This provision could reduce sheriff sales in instances where if a person with a tax praecipe does not pay the required outstanding property taxes, special assessments, penalties, and interest.

(Revised) *Notices Sent to Property Owners*- Counties, municipalities, and sewer districts would have to send additional notices by certified mail to the person(s) described under the bill.

(Revised) *Filing of Praecipe for Sale of Property*- This provision may increase the number of sheriffs' sales that occur if additional praecipes for sale were filed by local enforcement agencies with abatement orders. This provision would only affect a vacant or abandoned structure under an abatement order. The sheriff would have 120 days, to schedule the sale, after the certification of the judgement is made by the clerk.

Background- Certified mail service currently costs \$2.80 in addition to the first class postage of \$0.44. A return receipt is currently \$2.30 for a total of \$5.54 per notice sent in this manner.

Explanation of Local Revenues: *Costs Recovery*- This provision would allow the counties to recover sale, advertising, and other costs related to the selling of certain certificates of sale.

Tax Sale Surplus Fund- Court Fee Revenue: If more surplus claims are decided in court, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

(Revised) *Cancellation of Exempt Entities' Property Taxes*- This provision would allow county assessors, county auditors, county treasurers, and township assessors (if any) to jointly petition the DLGF to cancel property taxes charged to an otherwise exempt property owner in a case where the exemption application was not timely filed or where the taxes were assessed against the prior owner.

If petitioned, the DLGF, with approval of the AG, would be able to cancel the taxes and any accrued interest or penalties.

Canceled taxes would reduce tax distributions to local civil taxing units and school corporations. The fiscal impact would depend on local action.

Background Information- The SRI corporation currently contracts with 79 Indiana counties to conduct tax sales. SRI reported owners of approximately 2,750 parcels in 10 counties paid delinquent taxes and penalties *prior* to tax sale of the parcels as of September for CY 2009. Penalty amounts paid for CY 2009 are currently unavailable.

The following table provides further statistics from the counties under contract with SRI.

CY	Number of Parcels with Taxes and Penalties Paid Prior to Tax Sale	Number of Parcels Offered for Tax Sale	Number of Counties with Tax Sales During Year
2000	12,215	11,447	67
2001	15,172	10,353	71
2002	15,556	9,633	73
2003	8,293	6,818	31
2004	13,938	5,980	46
2005	15,819	8,435	64
2006	18,867	16,356	71
2007	12,795	16,380	47
2008	9,563	6,694	39
2009*	2,754	2,328	10
Ten-Year Total	124,972	94,424	
*Through September 2009			

State Agencies Affected: DLGF, AG; IHCDA.

Local Agencies Affected: Trial courts; county assessors; county auditors; county treasurers; township assessors; local civil taxing units; school corporations; municipalities; sewer districts.

Information Sources: James Hughes, SRI, 842-5818; United States Postal Service.

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